

AN ACT

relating to payoff statements provided in connection with certain home loans.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 343, Finance Code, is amended by adding Section 343.106 to read as follows:

Sec. 343.106. PAYOFF STATEMENTS. (a) In this section, "mortgagee," "mortgage servicer," and "mortgagor" have the meanings assigned by Section 51.0001, Property Code.

(b) The finance commission shall adopt rules governing requests by title insurance companies for payoff information from mortgage servicers related to home loans and the provision of that information, including rules prescribing a standard payoff statement form that must be used by mortgage servicers to provide those payoff statements.

(c) In adopting rules under Subsection (b), the finance commission shall require a mortgage servicer who receives a request for a payoff statement with respect to a home loan from a title insurance company to deliver the requested payoff statement on the prescribed form within a time specified by finance commission rule, which must allow the mortgage servicer at least seven business days after the date the request is received to deliver the payoff statement.

(d) The standard payoff statement form prescribed by the

1 finance commission under Subsection (b) must require that a  
2 completed form:

3 (1) state the proposed closing date for the sale and  
4 conveyance of the real property securing the home loan or for any  
5 other transaction that would involve the payoff of the home loan, as  
6 specified by the title insurance company's request; and

7 (2) provide a payoff amount that is valid through that  
8 date.

9 (e) Except as provided by Subsection (f) or (g), if the  
10 mortgage servicer provides a completed payoff statement form that  
11 meets the requirements of this section and rules adopted under this  
12 section in response to a request for a payoff statement, the  
13 mortgage servicer or mortgagee may not, on or before the proposed  
14 closing date, demand that a mortgagor pay an amount in excess of the  
15 payoff amount specified in the payoff statement.

16 (f) If a mortgage servicer or mortgagee discovers that a  
17 payoff statement is incorrect, the mortgage servicer or mortgagee  
18 may correct and deliver the statement on or before the second  
19 business day before the specified proposed closing date. The  
20 corrected payoff statement must be delivered to the requestor by:

21 (1) certified mail with return receipt requested; and

22 (2) electronic means, if the requestor provides the  
23 mortgage servicer with a means to deliver the corrected statement  
24 electronically.

25 (g) If a mortgage servicer submits an incorrect payoff  
26 statement to a title insurance company that results in the mortgage  
27 servicer requesting an amount that is less than the correct payoff

amount, the mortgage servicer or mortgagee does not deliver a corrected payoff statement in accordance with Subsection (f), and the mortgage servicer receives payment in the amount specified in the payoff statement, the difference between the amount included in the payoff statement and the correct payoff amount:

(1) remains a liability of the former mortgagor owed to the mortgagee; and

(2) if the payoff statement is in connection with:

(A) the sale of the real property:

(i) the deed of trust or other contract lien securing an interest in the property is released;

(ii) within a reasonable time after receipt of payment by the mortgagee or mortgage servicer, the mortgagee or mortgage servicer, as applicable, shall deliver to the title company a release of the deed of trust or other contract lien securing an interest in the property; and

(iii) any proceeds disbursed at closing to or for the benefit of the mortgagor, excluding closing costs related to the transaction, are subject to a constructive trust for the benefit of the mortgagee to the extent of the underpayment; or

(B) a refinance by the mortgagor of the existing home loan:

(i) the lien securing the existing home loan becomes subordinate to the lien securing the new home loan; and

(ii) any proceeds disbursed at closing to or for the benefit of the mortgagor, excluding closing costs related to the transaction, are subject to a constructive trust for

1 the benefit of the mortgagee to the extent of the underpayment.

2       SECTION 2. (a) As soon as practicable after the effective  
3 date of this Act, the Finance Commission of Texas shall adopt the  
4 rules, including the standard payoff statement form, required by  
5 Section 343.106, Finance Code, as added by this Act.

6       (b) Notwithstanding Section 343.106, Finance Code, as added  
7 by this Act, a mortgage servicer is not required to comply with that  
8 section before the 90th day after the date the Finance Commission of  
9 Texas adopts the rules required by that section.

10       SECTION 3. This Act takes effect September 1, 2011.

H.B. No. 558

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 558 was passed by the House on April 13, 2011, by the following vote: Yeas 148, Nays 0, 1 present, not voting.

Robert Harvey

Chief Clerk of the House

I certify that H.B. No. 558 was passed by the Senate on May 5, 2011, by the following vote: Yeas 31, Nays 0.

Patry Spill

Secretary of the Senate

APPROVED:

17 MAY '11

Date

RICK PERRY

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

3:07 pm O'CLOCK

MAY 17 2011

Boyd McWhorter

Secretary of State